

MARYLAND DEPARTMENT
OF THE ENVIRONMENT
1800 Washington Boulevard
Baltimore, Maryland 21230-1701,

Plaintiff,

v.

1411 DIVISION STREET, LLC
1784 Broadway, 7th Floor
New York, New York 10018

SERVE ON:
CSC-LAWYERS
INCORPORATING SERVICE
COMPANY
7 Saint Paul Street
Baltimore, Maryland 21202,

AND

TCG DEVELOPMENT, INC
1104 North Carrollton Avenue
Baltimore, Maryland 21217

SERVE ON:
WILLIAM CULLER
1104 North Carrollton Avenue
Baltimore, Maryland 21217,

AND

WILLIAM CULLER,
trading as CULLER GROUP
1104 North Carrollton Avenue
Baltimore, Maryland 21217,

Defendants.

* IN THE RECEIVED
CIRCUIT COURT FOR
BALTIMORE CITY
* CIRCUIT COURT 2019 JUN 28 P 2:25
* FOR CIVIL DIVISION
* BALTIMORE CITY
* Civil Action No.

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COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

1. Plaintiff, the Maryland Department of the Environment, through its attorneys, files this Complaint for Civil Penalties and injunctive relief pursuant to the powers, duties, and responsibilities vested in the Secretary of the Environment by the provisions of Titles 1, 2, and 6 of the Environment Article, Annotated Code of Maryland, against defendants 1411 Division Street, LLC.; William Culler; and TCG Development, Inc. and alleges as follows:

PRELIMINARY STATEMENT

2. The Department brings this civil action against Defendants for civil penalties and injunctive relief under §§ 2-609, 2-610, and 6-422 of the Environment Article for violations of Maryland's air pollution laws and regulations at a property located at 1411 Division Street in Baltimore City, Maryland (the "Property") and for the knowing and willful violation of a corrective order issued by the Department seeking remediation of the Property.

3. On or about June 2, 2016, 1411 Division Street, LLC purchased the Property, which contained the historic St. Vincent's Infant Asylum/Carver Hall Apartment buildings. The Department has reasonable grounds to believe that the buildings on the Property contained asbestos. The Department alleges that 1411 Division Street, LLC hired defendant William Culler, trading as Culler Group, as the contractor to demolish the buildings on the Property, and that on or about February 26, 2018, the buildings on the Property were demolished by William Culler and TCG Development, Inc. in violation of the State's asbestos control laws and regulations.

4. Following the demolition, the Department issued a corrective order to 1411 Division Street, LLC that required the Property to be remediated as expeditiously as practicable by a licensed asbestos contractor, who would treat the demolition debris as asbestos contaminated. The Department alleges that 1411 Division Street, LLC knowingly and willfully violated that lawfully issued corrective order.

5. Defendants' violations implicate Maryland's environmental laws, which are designed to protect the air quality of the State and the health of its citizens. Given the significant nature of the violations, the knowing violation of the corrective order, and Defendants' indifference to public health, this complaint seeks an order from the Court (1) requiring Defendants to promptly clean the Property consistent with the Department's corrective order and the State's asbestos control laws and regulations and (2) assessing civil penalties of up to \$25,000 per day for each day of violation alleged herein.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this action under §§ 1-501 and 6-103 of the Courts and Judicial Proceedings Article and §§ 2-609, 2-610, and 6-422 of the Environment Article.

7. Venue is proper in this Court under § 6-201 of the Courts and Judicial Proceedings Article because the Property is located in Baltimore City, Maryland, and Defendants regularly conduct business in Baltimore City.

PARTIES

8. The Plaintiff is the agency within the Executive Branch of the State of Maryland that is charged with responsibility to protect the environment and to enforce the State's environmental laws and the comprehensive state-federal program controlling air pollutants to protect the health, the general welfare, and the property of the people of the State. Md. Code Ann., Envir. §§ 1-401, 2-201, 2-103, and 2-301.

9. Defendant 1411 Division Street, LLC is the owner of the Property, located at 1411 Division Street, Baltimore, Maryland 21217, and identified as Section 12, Block 376, Lot 29 on Baltimore City Tax Map 14. Defendant 1411 Division Street, LLC is an entity formed under the laws of Delaware and previously registered to do business in Maryland. Defendant 1411 Division Street, LLC's foreign business entity registration was forfeited on December 4, 2017, and as of the date of this filing, it is not in good standing under the laws of Maryland.

10. Defendant TCG Development, Inc. is a corporation formed under the laws of the State of Maryland that performs demolition, renovation, and other contracting services in the State, including in Baltimore City. As of the date of this filing, TCG Development, Inc. is not in good standing under the laws of Maryland. According to the company's Articles of Incorporation, William Culler is the sole director, sole shareholder, and resident agent of TCG Development, Inc.

11. Defendant William Culler is an individual who has registered with the Maryland Department of Assessments and Taxation for use of the trade name “Culler Group” in association with construction business activities.

STATUTORY AND REGULATORY AUTHORITY

Federal Statutory Program

12. Asbestos is a hazardous air pollutant regulated under National Emissions Standards for Hazardous Air Pollutants (“NESHAP”) of the federal Clean Air Act, 42 U.S.C. §§ 7401 through 7671q. *See* 42 U.S.C. § 7412(b)(1); Code of Maryland Regulation (“COMAR”) 26.11.01.01B(21). Federal regulations governing the emission of asbestos are found at 40 C.F.R. Part 61, Subpart M, §§ 61.140 through 61.157. In 1978, the United States Environmental Protection Agency delegated to Maryland the authority to enforce the federal NESHAP regulations.

13. In a facility being demolished, all requirements of 40 C.F.R. § 61.145(b) and (c) apply where the combined amount of regulated asbestos-containing material is at least 15 square meters (160 square feet) on facility components other than pipes. 40 C.F.R. § 61.145(a). In a facility being demolished, only certain notification requirements apply where the combined amount of regulated asbestos-containing material is less than 15 square meters (160 square feet) on facility components other than pipes. *Id.*

14. "Regulated asbestos-containing material" is defined as follows:

(a) Friable asbestos material, (b) Category I nonfriable asbestos-containing material that has become friable, (c) Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by [40 CFR Part 61, Subpart M.]

40 C.F.R. § 61.141.

15. "Friable asbestos material" is defined as any material containing more than 1 percent asbestos as determined using point counting by polarized light microscopy, and that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. 40 C.F.R. § 61.141.

16. "Category I nonfriable asbestos-containing material" is defined as asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using point counting by polarized light microscopy. 40 C.F.R. § 61.141.

17. "Category II nonfriable asbestos-containing material" is defined as any material, excluding Category I nonfriable asbestos-containing material, containing more than 1 percent asbestos as determined using point counting by polarized light microscopy, and that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure. 40 C.F.R. § 61.141.

18. A "facility" is defined in part as any institutional, commercial, public, industrial, or residential structure, installation, or building (including any

structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative). 40 C.F.R. § 61.141.

19. The “owner or operator of a demolition or renovation activity” means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both. 40 C.F.R. § 61.141.

20. To determine which requirements of 40 C.F.R. § 61.145 (a), (b), or (c) apply, the owner or operator of a demolition activity must thoroughly inspect the affected facility or part of the facility where the demolition or renovation will occur for the presence of asbestos (including Category I and Category II nonfriable asbestos) prior to commencing any work. 40 C.F.R. § 61.145(a).

21. Each owner or operator of a demolition activity must provide to the Department written notice of the intention to demolish or renovate. 40 C.F.R. § 61.145(b)(1). The notice must be postmarked or delivered at least 10 working days before the beginning of any activity that would break up, dislodge, or similarly disturb asbestos material if the amount of regulated asbestos-containing material is at least 15 square meters (160 square feet) on facility components other than pipes. 40 C.F.R. § 61.145(b)(3)(i).

22. Each owner or operator of a demolition activity must remove all regulated asbestos-containing material from a facility before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. 40 C.F.R. § 61.145(c)(1).

23. Each owner or operator of a demolition activity must (i) adequately wet all regulated asbestos-containing material and ensure that it remains wet until collected and contained or treated in preparation for disposal and (ii) carefully lower the material to the ground and floor, without dropping, throwing, sliding, or otherwise disturbing the material. 40 C.F.R. § 61.145(c)(6)(i)-(ii).

24. Each owner or operator of a demolition activity must ensure no stripping, removal, or any other handling of regulated asbestos-containing material at a regulated facility occurs unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of § 61.145 and the means of complying with them, is present. 40 C.F.R. § 61.145(c)(8).

25. The owner and operator of any source covered under § 61.145 is prohibited from discharging visible emissions to the outside air during the collection, processing or packaging of any waste material generated by the source. 40 C.F.R. § 61.150(a)(1)(ii).

State Statutory Program

26. Under Maryland law, a person may not construct, modify, operate, or cause to be constructed, modified, or operated any NESHAP source, as defined in COMAR 26.11.01.01B(21), that results or will result in violation of any provisions of 40 C.F.R. Part 61. COMAR 26.11.15.02A. If a provision of COMAR 26.11.21.06 conflicts with a requirement under a NESHAP incorporated under

COMAR 26.11.15.02, the NESHAP requirement takes precedence. COMAR 26.11.21.02D.

27. In addition to incorporation of the federal NESHAP regulations for control of asbestos, the State has promulgated asbestos control regulations at COMAR 26.11.21 and 26.11.23, as authorized by Title 2 and Title 6, subtitle 4 of the Environment Article.

28. The authority over licensing, training, and standards of asbestos removal are vested with the Department under Title 2 and Title 6, subtitle 4 of the Environment Article.

29. A person who intends to engage in an asbestos project that is a NESHAP source shall notify the Department in writing in accordance with the requirements of 40 C.F.R. Part 61. COMAR 26.11.21.03A. Any business entity licensed to perform an asbestos project that is not regulated under § A, B, or D must notify the Department in writing before beginning the project. COMAR 26.11.21.03C.

30. An “asbestos project” means any activity involving the demolition, renovation, or encapsulation of friable asbestos materials.” COMAR 26.11.21.01A.

31. A “business entity” is a partnership, firm, association, corporation, sole proprietorship, or other business concern. COMAR 26.11.21.01B.

32. A person may request that the Department determine whether a project is an asbestos project subject to regulation under COMAR 26.11.21. COMAR 26.11.21.02E.

33. A business entity may not engage in an asbestos project unless it is licensed by the Department. Md. Code Ann., Envir. § 6-409; COMAR 26.11.21.04.

34. A business entity must ensure that each worker or supervisor who will come into contact with friable asbestos, or who will be responsible for an asbestos project, receives an initial training course approved by the Department and an annual review course approved by the Department. COMAR 26.11.21.05C(1)(a) and (b).

35. A business entity must provide workers and supervisors who will be exposed to an asbestos environment with protective clothing and equipment, including disposable clothing with hair and foot covers that will reasonably prevent asbestos fibers from reaching the body, and respirators approved by the National Institute of Occupational Safety and Health that, at a minimum, are capable of being qualitatively fit tested using positive and negative methods. COMAR 26.11.21.05D(1) and (2).

36. A person engaged in an asbestos project that is a NESHAP source must display 20-inch x 14-inch danger signs wherever airborne asbestos fibers may be present, in accordance with 29 C.F.R. § 1926.58. COMAR 26.11.21.06A(1).

37. A business entity planning an asbestos project that is a NESHAP source must post Project Notification signs outside all entrances to the asbestos project to inform the public in the immediate vicinity that an asbestos project will be performed at least three days before removing asbestos. COMAR 26.11.21.06A(2).

38. Any person who engages in an asbestos project that is a NESHAP source shall wet the asbestos materials to be removed with a solution containing a surfactant that significantly reduces the interfacial surface tension of water or penetrates friable asbestos materials such that the material is wet thoroughly and remains wet during the removal process to minimize dust. COMAR 26.11.21.06B(2).

39. A person who intends to completely demolish a building or structure that is a NESHAP source shall clean the work area until no residue or asbestos material is visible following removal of the asbestos material. COMAR 26.11.21.06B(3)(a).

40. A person engaged in the demolition of a NESHAP source shall (i) cover all windows, doors, and other openings with plastic sheeting and seal with tape before beginning any demolition; (ii) use a negative pressure system to minimize airborne asbestos dust inside enclosures; and (iii) wet the structure and all components as necessary to assure that the asbestos material to be stripped remains wet during removal, loading, and transportation. COMAR 26.11.21.06C.

41. A person engaged in any asbestos project that is not a NESHAP source shall take reasonable precautions to prevent asbestos from becoming airborne, including (i) removing all friable asbestos before any demolition project; (ii) wetting asbestos as described in COMAR 26.11.21.06B(2); (iii) isolating and containing asbestos that is to be removed or encapsulated; (iv) using appropriate work practices to minimize the dispersal of particulate asbestos; (v) leaving no visible residue of

asbestos after completing the project; and (6) posting "Danger" signs at entrances where asbestos is to be removed. COMAR 26.11.21.07A.

Injunctive Relief and Civil Penalties

42. The Department may issue an administrative corrective order if the Department has reasonable grounds to believe that the person to whom the order is directed has violated Title 2 of the Environment Article or any rule or regulation adopted thereunder. Md. Code Ann., Envir. § 2-602.

43. In addition, the Department may issue an order that requires the person to whom it is directed to take corrective action within a time set in the order. Md. Code Ann., Envir. § 6-420(c)(1).

44. A corrective order issued under Title 2 shall (i) specify the provision allegedly violated, (ii) describe the nature and extent of the violation, (iii) require corrective action within a time specified in the order, and (iv) state that the person charged will receive a hearing if the person requests the hearing within 10 days after service. Md. Code Ann., Envir. § 2-604(a). The Department is directed to attempt to secure compliance with a final order issued under Title 2 and obligated to seek enforcement of the corrective order via civil action if compliance has not been achieved within one year. Md. Code Ann., Envir. § 2-608(a).

45. The Department may bring a civil action to enjoin any conduct that violates any provision of Title 2 of the Environment Article, or any rule, regulation, or order adopted or issued thereunder. Md. Code Ann., Envir. § 2-609(a).

46. A person who violates any provision of Title 2 of the Environment Article or any rule, regulation, or order adopted or issued thereunder is liable for a civil penalty not exceeding \$25,000, to be collected in a civil action in the circuit court for any county. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

47. In addition, a person who violates any provision of Title 6, subtitle 4 of the Environment Article or any rule or regulation adopted thereunder is liable for a civil penalty not exceeding \$25,000 to be collected in a civil action. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

FACTUAL ALLEGATIONS

48. The Property is a 32,400-square-foot property located in the Upton area of Baltimore City, and is identified as Section 12, Block 376, Lot 29 on Baltimore City Tax Map 14. The Property housed a complex of buildings formerly known as the St. Vincent's Infant Asylum, built in 1860. The complex was later converted to the Calvert Hall Apartments around 1941. The Property was valued at \$754,000 as of January 1, 2017.

49. 1411 Division Street, LLC is a foreign entity formed under the laws of Delaware on March 17, 2016. 1411 Division Street, LLC was registered to do business in Maryland on March 21, 2016.

50. 1411 Division Street, LLC purchased the Property on June 2, 2016, and is still the owner of the Property as of the date of this filing.

51. On December 4, 2017, 1411 Division Street, LLC's foreign business entity registration was forfeited, and as of the date of this filing, that entity is not in good standing under the laws of Maryland.

52. Upon information and belief, on February 1, 2018, 1411 Division Street, LLC entered into a contract with William Culler, trading as Culler Group, to completely demolish certain buildings on the Property.

53. TCG Development, Inc. is a corporation formed under the laws of the State of Maryland on August 4, 2017. According to the company's Articles of Incorporation, William Culler is the sole director, sole shareholder, and resident agent of TCG Development, Inc.

54. 1411 Division Street, LLC has never applied for nor received a license from the Department to perform asbestos renovation or demolition work within the State.

55. TCG Development, Inc. has never applied for nor received a license from the Department to perform asbestos renovation or demolition work within the State.

56. Upon information and belief, William Culler and TCG Development, Inc., collectively, were demolishing the buildings on the Property on or about February 26, 2018.

57. 1411 Division Street, LLC; William Culler; and TCG Development, Inc. each failed to notify the Department of the demolition project prior to commencement of demolition activities. At no time prior to commencement of the

demolition did 1411 Division Street, LLC; William Culler; or TCG Development, Inc. request that the Department determine whether the demolition was an asbestos project regulated under COMAR 26.11.21.

58. On February 28, 2018, the Department received a complaint about a building demolition being conducted at the Property.

59. On March 1, 2018, a Department inspector conducted a site inspection of the Property. Upon arrival at the Property, the inspector discovered that most of the buildings on the Property had been completely torn down.

60. During the inspection, the inspector did not observe any asbestos project notification signs posted at the Property.

61. During the inspection, the inspector took several samples of demolition debris to test for the presence of suspected asbestos-containing material. The Department alleges that the samples taken were all friable (i.e. able to be crumbled, pulverized, or reduced to powder by hand pressure when dry), either as manufactured or as a result of the demolition activities and/or extended exposure to the elements.

62. The samples collected by the inspector were submitted to the Department of Health's Air Quality Laboratory for analysis using polarized light microscopy for the presence of asbestos.

63. On March 8, 2018, a laboratory analysis confirmed the presence of regulated asbestos-containing material in one of the samples collected from the Property.

64. Upon information and belief, Defendants 1411 Division Street, LLC; William Culler; and TCG Development, Inc. jointly engaged in an asbestos project at the Property without being licensed by the Department to perform asbestos projects within the State.

65. Upon information and belief, the demolished buildings contained at least 15 square meters (160 square feet) of friable asbestos-containing material.

66. Upon information and belief, 1411 Division Street, LLC; William Culler; and TCG Development, Inc. failed to perform a thorough inspection of the buildings on the Property for the presence of asbestos prior to commencement of demolition activities.

67. Upon information and belief, 1411 Division Street, LLC; William Culler; and TCG Development, Inc. failed to first remove all asbestos-containing material and then clean the work area until no residue or asbestos-containing material was visible prior to commencement of the demolition of the buildings on the Property.

68. Upon information and belief, William Culler and TCG Development, Inc. failed to provide its workers with protective clothing and equipment, including respirators, during demolition of the buildings on the Property.

69. Upon information and belief, William Culler and TCG Development, Inc. engaged in a regulated asbestos demolition project without providing for the presence of at least one on-site representative, such as a foreman or management-

level person or other authorized representative, trained in the provisions of 40 C.F.R. Part 61, Subpart M, §§ 61.140 through 61.157.

70. Upon information and belief, 1411 Division Street, LLC; William Culler; and TCG Development, Inc. failed to utilize surfactant or otherwise take precautions to minimize dust or avoid asbestos from becoming airborne.

71. On April 4, 2018, the Department issued notices of violation to both 1411 Division Street, LLC and TCG Development, Inc.

72. On or about July 30, 2018, the Department issued corrective orders to 1411 Division Street, LLC and TCG Development, Inc. jointly and severally ordering those companies to hire a Maryland licensed asbestos contractor within 30 days of service of the order to remove all demolition debris from the Property and dispose of all waste as asbestos contaminated. Asbestos removal activities were ordered to begin as expeditiously as practicable.

73. 1411 Division Street, LLC was served with the corrective order on August 2, 2018. 1411 Division Street, LLC did not file a written request for appeal of the corrective order.

74. Following service, and at various times thereafter, 1411 Division Street, LLC contacted the Department to discuss compliance with and/or modification of, the corrective order.

75. As of the date of this filing, however, no clean-up activities have been initiated by the Defendants and no other company has submitted notification of an intent to commence an asbestos project at the Property.

76. Since February 26, 2018, Defendants have left the demolition debris exposed to the atmosphere, and have failed to take precautions to prevent asbestos in the demolition debris from becoming airborne.

COUNT I
(Violation of COMAR 26.11.15.02A by 1411 Division Street, LLC)

77. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

78. COMAR 26.11.15.02A prohibits a person from constructing, modifying, operating, or causing to be constructed, modified, or operated any NESHAP source, as defined in COMAR 26.11.01.01B(21), that results or will result in a violation of any provision of 40 C.F.R. Part 61.

79. COMAR 26.11.01.01B(21) defines a NESHAP source to include any source of asbestos that is subject to the provisions of 40 C.F.R. Part 61, Subpart M, as amended.

80. Under 40 C.F.R. § 61.145(a)(1), a NESHAP source includes demolition projects where the combined amount of regulated asbestos-containing material is at least 80 linear meters (260 linear feet) of asbestos on pipes or 15 square meters (160 square feet) of asbestos on other building components.

81. On or about February 26, 2018, defendant 1411 Division Street, LLC engaged in or caused the demolition of a NESHAP source by employing a contractor to demolish buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material in a manner that violated

provisions of 40 C.F.R. Part 61, Subpart M, in violation of COMAR 26.11.15.02A.

Specifically, 1411 Division Street, LLC failed to

- a. Thoroughly inspect the buildings to be demolished for the presence of asbestos (including Category I and Category II nonfriable asbestos) prior to commencing any work, as required by 40 C.F.R. § 61.145(a);
- b. Provide written notice of its intent to demolish buildings on the Property, as required by 40 C.F.R. § 61.145(b)(1) and (3)(i);
- c. Remove all regulated asbestos-containing material before any activity began that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal, as required by 40 C.F.R. § 61.145(c)(1);
- d. Adequately wet all regulated asbestos-containing material and ensure that it remained wet until collected and contained or treated in preparation for disposal, as required by 40 C.F.R. § 61.145(c)(6)(i);
- e. Ensure that all regulated asbestos-containing material was carefully lowered to the ground and floor, without dropping, throwing, sliding, or otherwise disturbing the material, as required by 40 C.F.R. § 61.145(c)(6)(ii);
- f. Ensure that no handling of regulated asbestos-containing material occurred until at least one on-site representative trained in the

provisions of § 61.145 was present, as required by 40 C.F.R. § 61.145(c)(8); and

g. Ensure visible emissions to the outside air were not discharged during the collection or processing of waste material, as required by 40 C.F.R. § 61.150(a)(1)(ii).

82. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

83. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT II
(Violation of COMAR 26.11.15.02A by William Culler and
TCG Development, Inc.)

84. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

85. COMAR 26.11.15.02A prohibits a person from constructing, modifying, operating, or causing to be constructed, modified, or operated any NESHAP source as defined in COMAR 26.11.01.01B(21), that results or will result in a violation of any provision of 40 C.F.R. Part 61.

86. COMAR 26.11.01.01B(21) defines a NESHAP source to include any source of asbestos that is subject to the provisions of 40 C.F.R. Part 61, Subpart M, as amended.

87. On or about February 26, 2018, defendants William Culler, trading as Culler Group, and TCG Development, Inc. collectively engaged in or caused the demolition of a NESHAP source by demolishing buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material in a manner that violated provisions of 40 C.F.R. Part 61, Subpart M, in violation of COMAR 26.11.15.02A. Specifically, William Culler and TCG Development, Inc. failed to

- a. Thoroughly inspect the buildings to be demolition for the presence of asbestos (including Category I and Category II nonfriable asbestos) prior to commencing any work, as required by 40 C.F.R. § 61.145(a);
- b. Provide written notice of its intent to demolish buildings on the Property, as required by 40 C.F.R. § 61.145(b)(1) and (3)(i);
- c. Remove all regulated asbestos-containing material before any activity began that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal, as required by 40 C.F.R. § 61.145(c)(1);
- d. Adequately wet all regulated asbestos-containing material and ensure that it remained wet until collected and contained or treated

in preparation for disposal, as required by 40 C.F.R. § 61.145(c)(6)(i);

- e. Ensure that all regulated asbestos-containing material was carefully lowered to the ground and floor, without dropping, throwing, sliding, or otherwise disturbing the material, as required by 40 C.F.R. § 61.145(c)(6)(ii);
- f. Ensure that no handling of regulated asbestos-containing material occurred until at least one on-site representative trained in the provisions of § 61.145 was present, as required by 40 C.F.R. § 61.145(c)(8); and
- g. Ensure visible emissions to the outside air were not discharged during the collection or processing of waste material, as required by 40 C.F.R. § 61.150(a)(1)(ii).

88. Any person who violates any rule or regulation issued under the authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

89. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT III
(Violation of COMAR 26.11.21.03A by 1411 Division Street, LLC)

90. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

91. COMAR 26.11.21.03A requires that a person who intends to engage in an asbestos project that is a NESHAP source shall notify the Department in writing in accordance with the requirements of 40 C.F.R. Part 61.

92. 40 C.F.R. § 61.145(b)(1) requires each owner of a demolition activity to provide written notice of the intention to demolish. The notice must be postmarked or delivered at least 10 working days before any activity begins that would break up, dislodge or similarly disturb asbestos material if the project contains at least 15 square meters (160 square feet) of regulated asbestos-containing material. 40 C.F.R. § 61.145(b)(3)(i).

93. On or about February 26, 2018, defendant 1411 Division Street, LLC engaged in or caused the demolition of a NESHAP source by having an unlicensed contractor demolish buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without providing 10 working days' notice prior to initiating demolition activities, in violation of COMAR 26.11.21.03A.

94. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per

violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

95. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT IV
(Violation of COMAR 26.11.21.03A by William Culler and
TCG Development, Inc.)

96. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

97. COMAR 26.11.21.03A requires that a person who intends to engage in an asbestos project that is a NESHAP source shall notify the Department in writing in accordance with the requirements of 40 C.F.R. Part 61.

98. Each operator of a demolition activity must provide written notice of the intention to demolish. 40 C.F.R. § 61.145(b)(1). The notice must be postmarked or delivered at least 10 working days before any activity begins that would break up, dislodge or similarly disturb asbestos material if the project contains at least 15 square meters (160 square feet) of regulated asbestos-containing material. 40 C.F.R. § 61.145(b)(3)(i).

99. On or about February 26, 2018, defendants William Culler, trading as Culler Group, and TCG Development, Inc. collectively engaged in or caused the demolition of a NESHAP source by demolishing buildings on the Property that

contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without providing 10 working days' notice prior to initiating demolition activities, in violation of COMAR 26.11.21.03A.

100. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

101. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT V
(Violation of COMAR 26.11.21.04 by 1411 Division Street, LLC)

102. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

103. COMAR 26.11.21.04 prohibits a business entity from engaging in any asbestos project unless it is licensed by the Department.

104. On or about February 26, 2018, Defendant 1411 Division Street, LLC engaged in an asbestos project by hiring an unlicensed contractor to demolish buildings on the Property that contained friable asbestos-containing material, in violation of COMAR 26.11.21.04.

105. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

106. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT VI
(Violation of COMAR 26.11.21.04 by William Culler and
TCG Development, Inc.)

107. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

108. COMAR 26.11.21.04 prohibits a business entity from engaging in any asbestos project unless it is licensed by the Department.

109. On or about February 26, 2018, defendants William Culler, trading as Culler Group, and TCG Development, Inc., collectively engaged in an asbestos project by demolishing buildings on the Property that contained friable asbestos-containing material without being licensed by the Department to perform asbestos projects in the State, in violation of COMAR 26.11.21.04.

110. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per

violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

111. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT VII
(Violation of COMAR 26.11.21.05C(1) by William Culler and
TCG Development, Inc.)

112. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

113. COMAR 26.11.21.05C(1) requires a business entity to ensure that each worker or supervisor who will come into contact with friable asbestos, or who will be responsible for an asbestos project, receives an initial training course approved by the Department and an annual review course approved by the Department.

114. On or about February 26, 2018, Defendants William Culler, trading as Culler Group, and TCG Development, Inc. collectively allowed their workers or supervisors to come into contact with friable asbestos or be were responsible for the demolition, without completing an initial asbestos training course approved by the Department, in violation of COMAR 26.11.21.05C(1).

115. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per

violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

116. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT VIII
(Violation of COMAR 26.11.21.05D by William Culler and
TCG Development, Inc.)

117. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

118. COMAR 26.11.21.05D(1) and (2) require a business entity to provide workers and supervisors who will be exposed to an asbestos environment with protective clothing and equipment, including disposable clothing with hair and foot covers that will reasonably prevent asbestos fibers from reaching the body, and respirators approved by the National Institute of Occupational Safety and Health that, at a minimum, are capable of being qualitatively fit tested using positive and negative methods.

119. On or about February 26, 2018, Defendants William Culler, trading as Culler Group, and TCG Development, Inc., collectively allowed workers or supervisors to be exposed to an asbestos environment during the demolition on the Property without providing protective clothing and equipment, or approved respirators, in violation of COMAR 26.11.21.05D.

120. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

121. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT IX
(Violation of COMAR 26.11.21.06A by 1411 Division Street, LLC)

122. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

123. COMAR 26.11.21.06A(1) requires that a person engaged in an asbestos project that is a NESHAP source shall display 20-inch x 14-inch danger signs wherever airborne asbestos fibers may be present, in accordance with 29 C.F.R. § 1926.58.

124. In addition, COMAR 26.11.21.06A(2) requires a business entity planning an asbestos project that is a NESHAP source to post project notification signs outside all entrances to the asbestos project to inform the public in the immediate vicinity that an asbestos project will be performed at least three days before removing asbestos.

125. On or about February 26, 2018 through the present, Defendant 1411 Division Street, LLC engaged in the demolition of a NESHAP source by hiring an unlicensed contractor demolish buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without posting asbestos danger signs or asbestos project notification signs at all entrances to the demolition or anywhere else on the Property, in violation of COMAR 26.11.21.06A.

126. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

127. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT X
(Violation of COMAR 26.11.21.06A by William Culler and
TCG Development, Inc.)

128. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

129. COMAR 26.11.21.06A(1) requires that a person engaged in an asbestos project that is a NESHAP source shall display 20-inch x 14-inch danger

signs wherever airborne asbestos fibers may be present, in accordance with 29 C.F.R. § 1926.58.

130. In addition, COMAR 26.11.21.06A(2) requires a business entity planning an asbestos project that is a NESHAP source to post project notification signs outside all entrances to the asbestos project to inform the public in the immediate vicinity that an asbestos project will be performed at least three days before removing asbestos.

131. COMAR 26.11.21.01B defines “business entity” as a partnership, firm, association, corporation, sole proprietorship, or other business concern.

132. On or about February 26, 2018, through the present, defendants William Culler, trading as Culler Group, and TCG Development, Inc. collectively engaged in the demolition of a NESHAP source by demolishing buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without posting asbestos danger signs or asbestos project notification signs at all entrances to the demolition or anywhere else on the Property, in violation of COMAR 26.11.21.06A.

133. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

134. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding

\$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XI
(Violation of COMAR 26.11.21.06B(2) by 1411 Division Street, LLC)

135. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

136. COMAR 26.11.21.06B(2) requires any person who engages in an asbestos project that is a NESHAP source to wet the asbestos materials to be removed with a solution containing a surfactant that significantly reduces the interfacial surface tension of water or penetrates friable asbestos materials such that the material is wet thoroughly and remains wet during the removal process to minimize dust.

137. On or about February 26, 2018, Defendant 1411 Division Street, LLC engaged in the demolition of a NESHAP source by having an unlicensed contractor demolish buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without the use of a surfactant solution to thoroughly wet all friable asbestos-containing material, in violation of COMAR 26.11.21.06B(2).

138. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

139. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XII
(Violation of COMAR 26.11.21.06B(2) by William Culler and
TCG Development, Inc.)

140. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

141. COMAR 26.11.21.06B(2) requires any person who engages in an asbestos project that is a NESHAP source to wet the asbestos materials to be removed with a solution containing a surfactant that significantly reduces the interfacial surface tension of water or penetrates friable asbestos materials such that the material is wet thoroughly and remains wet during the removal process to minimize dust.

142. On or about February 26, 2018, Defendants William Culler, trading as Culler Group, and TCG Development, Inc. collectively engaged in the demolition of a NESHAP source by demolishing buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without the use of a surfactant solution to thoroughly wet all friable asbestos-containing material, in violation of COMAR 26.11.21.06B(2).

143. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per

violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

144. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XIII

(Violation of COMAR 26.11.21.06B(3)(a) by 1411 Division Street, LLC)

145. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

146. COMAR 26.11.21.06B(3)(a) requires that a person who intends to completely demolish a building or structure that is a NESHAP source shall clean the work area until no residue or asbestos material is visible following removal of the asbestos material.

147. No later than February 26, 2018, defendant 1411 Division Street, LLC engaged in the demolition of a NESHAP source by having an unlicensed contractor demolish buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without first removing all asbestos-containing material and then cleaning the work areas until no residue or asbestos-containing material was visible, in violation of COMAR 26.11.21.06B(3)(a).

148. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

149. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XIV
(Violation of COMAR 26.11.21.06B(3)(a) by William Culler and TCG Development, Inc.)

150. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

151. COMAR 26.11.21.06B(3)(a) requires that a person who intends to completely demolish a building or structure that is a NESHAP source shall clean the work area until no residue or asbestos material is visible following removal of the asbestos material.

152. On or about February 26, 2018, defendants William Culler, trading as Culler Group, and TCG Development, Inc., collectively engaged in the demolition of a NESHAP source by demolishing structures on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without first removing all asbestos-containing material and then cleaning the work

areas until no residue or asbestos-containing material was visible, in violation of COMAR 26.11.21.06B(3)(a).

153. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

154. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XV

(Violation of COMAR 26.11.21.06C by 1411 Division Street, LLC)

155. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

156. COMAR 26.11.21.06C requires a person engaged in the demolition of a NESHAP source to (i) cover all windows, doors, and other openings with plastic sheeting and seal with tape before beginning any demolition project; (ii) use a negative pressure system as described in COMAR 26.11.21.06B(4) to minimize airborne asbestos dust inside enclosures; and (iii) wet the structure and all components as necessary to assure that the asbestos material to be removed remains wet during removal, loading, and transportation.

157. On or about February 26, 2018, defendant 1411 Division Street, LLC engaged in the demolition of a NESHAP source by having an unlicensed contractor demolish buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without sealing the structure, using a negative pressure system, or wetting the structure and components, in violation of COMAR 26.11.21.06C.

158. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

159. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XVI
(Violation of COMAR 26.11.21.06C by William Culler and
TCG Development, Inc.)

160. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

161. COMAR 26.11.21.06C requires a person engaged in the demolition of a NESHAP source to (i) cover all windows, doors, and other openings with plastic sheeting and seal with tape before beginning any demolition project; (ii) use a negative pressure system as described in COMAR 26.11.21.06B(4) to minimize

airborne asbestos dust inside enclosures; and (iii) wet the structure and all components as necessary to assure that the asbestos material to be removed remains wet during removal, loading, and transportation.

162. On or about February 26, 2018, defendants William Culler, trading as Culler Group, and TCG Development, Inc. collectively engaged in the demolition of a NESHAP source by demolishing buildings on the Property that contained at least 15 square meters (160 square feet) of regulated asbestos-containing material without sealing the structure, using a negative pressure system, or wetting the structure and components, in violation of COMAR 26.11.21.06C.

163. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

164. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XVII
(Violation of Corrective Order by 1411 Division Street, LLC)

165. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

166. On August 2, 2018, defendant 1411 Division Street, LLC was served with a corrective order issued by the Department requiring the company to hire a licensed asbestos contractor within thirty days to clean up the asbestos-contaminated debris at the Property, and to bring that clean-up as expeditiously as practicable.

167. 1411 Division Street, LLC did not file a written request for appeal of the corrective order.

168. As of the date of this filing, 1411 Division Street, LLC has not formally hired a licensed asbestos contractor and clean-up activities have not been initiated at the Property. On each day from September 1, 2018 through the present, 1411 Division Street, LLC violated the corrective order by failing to hire a licensed asbestos contractor and initiate clean-up activities at the Property.

169. Any person who violates an order issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation.
Id.

170. A person who violates an order issued under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XVIII
(Alternatively, Violation of COMAR 26.11.21.03C
by William Culler and TCG Development, Inc.)

171. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

172. *In the alternative*, COMAR 26.11.21.03C requires a business entity that performs an asbestos project that is *not* regulated as a NESHAP source to notify the Department in writing before beginning the project.

173. On or about February 26, 2018, Defendants William Culler, trading as Culler Group, and TCG Development, Inc. collectively engaged in the demolition of a building containing regulated asbestos-containing material without providing written notice prior to initiating demolition activities, in violation of COMAR 26.11.21.03C.

174. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

175. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XIX
(Alternatively, Violation of COMAR 26.11.21.07A
by 1411 Division Street, LLC)

176. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

177. *In the alternative*, COMAR 26.11.21.07A requires a person engaged in any asbestos project that is *not* a NESHAP source to take reasonable precautions to prevent asbestos from becoming airborne, including (i) removing all friable asbestos before any demolition project; (ii) wetting asbestos as described in COMAR 26.11.21.06B(2); (iii) isolating and containing asbestos that is to be removed or encapsulated; (iv) using appropriate work practices to minimize the dispersal of particulate asbestos; (v) leaving no visible residue of asbestos after completing the project; and (6) posting “Danger” signs at entrances where asbestos is to be removed.

178. On or about February 26, 2018, defendant 1411 Division Street, LLC engaged in an asbestos project by having an unlicensed contractor demolish buildings with friable asbestos-containing material without (i) removing all friable asbestos before starting the demolition project; (ii) wetting asbestos as described in COMAR 26.11.21.06B(2); (iii) isolating and containing asbestos that is to be removed; (iv) using appropriate work practices to minimize the dispersal of particulate asbestos; (v) leaving no visible residue of asbestos after completing the project; and/or (6) posting “Danger” signs at entrances where asbestos is to be removed, in violation of COMAR 26.11.21.07A.

179. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

180. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

COUNT XX
(Alternatively, Violation of COMAR 26.11.21.07A
by William Culler and TCG Development, Inc.)

181. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this Complaint.

182. *In the alternative*, COMAR 26.11.21.07A requires a person engaged in any asbestos project that is *not* a NESHAP source to take reasonable precautions to prevent asbestos from becoming airborne, including (i) removing all friable asbestos before any demolition project; (ii) wetting asbestos as described in COMAR 26.11.21.06B(2); (iii) isolating and containing asbestos that is to be removed or encapsulated; (iv) using appropriate work practices to minimize the dispersal of particulate asbestos; (v) leaving no visible residue of asbestos after completing the project; and (6) posting “Danger” signs at entrances where asbestos is to be removed.

183. On or about February 26, 2018, Defendants William Culler, trading as Culler Group, and TCG Development, Inc., collectively engaged in an asbestos project by demolishing buildings with friable asbestos-containing material without (i) removing all friable asbestos before starting the demolition project; (ii) wetting asbestos as described in COMAR 26.11.21.06B(2); (iii) isolating and containing asbestos that is to be removed; (iv) using appropriate work practices to minimize the dispersal of particulate asbestos; (v) leaving no visible residue of asbestos after completing the project; and/or (6) posting “Danger” signs at entrances where asbestos is to be removed, in violation of COMAR 26.11.21.07A.

184. Any person who violates any rule or regulation issued under authority of Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation. *Id.*

185. A person who violates any rule or regulation adopted under Title 6, subtitle 4 of the Environment Article is liable for a civil penalty not exceeding \$25,000 per violation. Md. Code Ann., Envir. § 6-422(a)(1). Each day a violation continues is a separate violation. Md. Code Ann., Envir. § 6-422(a)(2).

REQUEST FOR RELIEF

WHEREFORE, the Maryland Department of Environment respectfully requests that this Court

1. Order defendants 1411 Division Street, LLC; William Culler; and TCG Development, Inc., to hire a Maryland licensed asbestos contractor to

- a. In accordance with all applicable regulations, remove all demolition debris from the Property and dispose of all the demolition debris as friable asbestos waste as expeditiously as practicable;
 - b. Obtain all necessary permits from Baltimore City and required asbestos project notifications; and
 - c. Within 10 days of disposal of the asbestos-contaminated demolition debris, provide the Department copies of waste disposal receipts or records demonstrating disposal at an appropriate asbestos-waste disposal facility, the name of the facility, and the date of disposal.
2. Assess defendant 1411 Division Street, LLC, civil penalties of up to \$25,000 per day, per violation
 - a. For NESHAP violations set forth in Counts I, III, V, IX, XI, XIII, XV, and XVII under authority of §§ 2-610 and 6-422 of the Environment Article; or
 - b. In the alternative, for non-NESHAP violations set forth in Counts I, V, XVII, XIX under authority of §§ 2-610 and 6-422 of the Environment Article.
3. Assess Defendants William Culler and TCG Development, Inc., civil penalties of up to \$25,000 per day, per violation

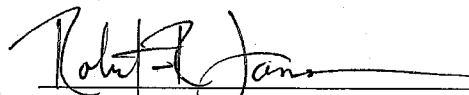
- a. For NESHAP violations set forth in Counts II, IV, VI, VII, VIII, X, XII, XIV, and XVI as authorized by §§ 2-610 and 6-422 of the Environment Article; or
 - b. In the alternative, for non-NESHAP violations set forth in Counts II, VI, VII, VIII, XVIII, and XX as authorized by §§ 2-610 and 6-422 of the Environment Article; and
4. Grant such other relief as this Court deems just and appropriate.

Respectfully submitted,

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July 1, 2019

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